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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/317,480 | 05/24/1999 | JAMES CALVIN PEELE | P-4015.279/P | 9153 |

7590 11/29/2001

DAVID E BENNETT
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RALEIGH, NC 27602

EXAMINER

PERSINO, RAYMOND B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2681

DATE MAILED: 11/29/2001

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.
09/317,480

Applicant

PEELE

Examiner

Raymond B. Persino

Art Unit

2681



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Oct 22, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

4. ☒ Applicant's reply has overcome the following rejection(s):
Claims 27-30. see "Examiner's Comments"
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in separate, timely filed amendment cancelling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
claims 1-9 remain rejected
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
Claim(s) allowed: 10-30
Claim(s) objected to: _____
Claim(s) rejected: 1-9
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
11. ☐ Other: _____

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EXAMINER'S COMMENTS

Response to Arguments

1. Applicant's arguments filed 10/22/2001, regarding claims 27 have been fully considered and are persuasive.

Allowable Subject Matter

2. The response to Final Office Action will be entered upon the timely submission of a Notice of Appeal and an Appeal Brief with the requisite fees, at that time Claims 21-30 would be allowed.

3. The following is a statement of reasons for the indication of allowable subject matter:

The examiner found the applicant's arguments for claims 21 persuasive, see paper #6. However, the examiner would like to stress that the reasons for the indication of allowable subject matter go beyond that argued by the applicant, namely the deficiency of element "g" by Reed. The examiner would like to point out that element "g" is suggested by Benbeniste, see comments above. However, element "g" in conjunction with elements "f" and "h" when combined with elements "a-e" is a unique combination of elements which is neither taught nor suggested by the prior art.

Regarding claim 27, the reasons for allowance are consistent with that for claim 21 now that the applicant as amended claim 27 to be consistent with claim 21. Thus element "d ii" in

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conjunction with elements “d I” and “d iii” when combined with elements “a-c” is a unique combination of elements which is neither taught nor suggested by the prior art.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Raymond Persino whose telephone number is (703) 308-7528. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost, can be reached on (703) 305-4778. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

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or faxed to:

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(703) 872-9314, (for formal communications intended for entry please label "EXPEDITED PROCEDURE," and informal or draft communications, please label "PROPOSED," or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Ray Persino *RP*

November 19, 2001

William Korzuch
WILLIAM KORZUCH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800